UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

| UNITED STATES OF AMERICA | | |) | |
|--------------------------|----------------------|---|---|----------------------------|
| | | |) | |
| | V. | |) | |
| | | |) | Docket No. 16-CR-40025-TSH |
| (1) | IVAN CRUZ-RIVERA and | |) | |
| (2) | CARLOS JIMENEZ | |) | |
| ` / | | |) | |
| | Defendants. | |) | |
| | |) | , | |

UNITED STATES' MOTION FOR VOIR DIRE OF TRANSLATOR

The United States, through United States Attorney Andrew E. Lelling and Assistant United States Attorneys Michelle L. Dineen Jerrett and William F. Abely, hereby respectfully requests that the Court conduct questioning of Joaquin Font, the translator who prepared the translated transcripts of the recordings (labeled as N-45 and N-46 in discovery) relating to a controlled purchase of heroin by a Confidential Source ("CS") from Segundo Gutierrez on October 4, 2013. As grounds for this motion, the United States submits that Mr. Font prepared transcripts of the pertinent recordings and provided these transcripts (and others) to the government between late October and early November 2018. Mr. Font certified the transcript for N-46 on November 2, 2018. The United States produced this transcript and others to Defendants on November 7, 2018 and the government included Mr. Font on its witness list filed on November 5, 2018 [D. 172.].

Yesterday afternoon at approximately 4:14 p.m., Mr. Font sent an email to the U.S. Attorney's Office indicating that "upon reviewing [N-46's] translation" he had two changes to make. Upon information and belief, these modifications were prompted by counsel to Defendant Ivan Cruz-Rivera on or about November 29, 2018 during a meeting Mr. Font had with Ivan Cruz-Rivera and his counsel. Further upon information and belief, counsel for Ivan Cruz-Rivera retained Mr. Font's services in interpreting discussions between defense counsel and Mr. Cruz-Rivera,

despite the fact that Mr. Font prepared translations in this case and was listed as a witness on the

government's witness list.

It appears unclear whether the original version of the transcript or the proposed modified

transcript is the more accurate translation, and it appears unclear what defense counsel and/or

Defendant said to Mr. Font to prompt him to re-visit his previously-certified translation. In an

effort to resolve these questions, the United States respectfully asks the Court to order *voir dire* of

Mr. Font prior to jury empanelment so that all parties and the Court have an opportunity to question

the translator in an effort to ascertain the most accurate version of the transcripts to be admitted into

evidence and the circumstances regarding the changes made yesterday.

Respectfully submitted,

ANDREW E. LELLING

United States Attorney

By: /s/ Michelle L. Dineen Jerrett

MICHELLE L. DINEEN JERRETT

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Date: November 30, 2018

CERTIFICATE OF SERVICE

This is to certify that this document shall be served on counsel to Defendants via ECF.

/s/ Michelle L. Dineen Jerrett

WILLIAM F. ABELY

Assistant U.S. Attorney

Dated: November 30, 2018

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